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## **Beyond Lipstick and High Heels: Three Tell-Tale Narratives of Female Leadership in the United States, Italy, and Japan**

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# Beyond Lipstick and High Heels: Three Tell-Tale Narratives of Female Leadership in the United States, Italy, and Japan

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**Abstract:** This paper focuses on the challenges and opportunities of female leadership in a time of sudden shock. The authors look at three examples across three different political, economic, and cultural jurisdictions. The first example is diversity and inclusion in the board of directors of corporations in the United States. Namely, the author looks at the recently created Securities and Exchange Commission rule calling for increased diversity and inclusion in corporations' boards of directors. The author describes the type of changes in the board that are likely to occur and how those measures should be implemented, especially during acute situations like the COVID-19 health crisis. The second example regards women's resilience in the face of needless bureaucracy. In this context, the paper tells the story of an Italian ninety-six-year-old woman – Nonna Peppina – who fought to remain in her village after the destruction of her old house. She was condemned and ordered to leave the village, and she sought legal support to stay in the village. She made her case against the Italian Government, which led the Parliament to adopt new legislation for post-disaster situations to support Peppina and those after her. The third example describes how a Japanese woman, a community leader, successfully organized a shelter during the Japan Great Earthquake in 2011 without government support and a shallow female leadership index. The paper concludes by explaining that female leadership is an opportunity that does not come without challenges. The stories the authors tell illustrate that

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unique circumstances shape the resilience of female leadership, which is strengthened by the character and charisma of our female leaders and a supportive institutional setting.

**Keywords:** board diversity, corporate boards, location of origin, disasters, female leadership

## Introduction

More women than ever before are obtaining bachelor's degrees.<sup>4</sup> They get into the workforce early and choose to get married later or not get married at all.<sup>5</sup> It is reported that about 80% of single women between the ages of 25 and 54 years old are on the job market.<sup>6</sup> In a decade, these women will likely assume leadership roles such as CEOs, department heads, deans, directors, and presidents. However, the fact that more women are playing leading roles does not mean that those new leadership roles are representative of the workforce landscape. Women, more often than not, face systemic barriers that are difficult to surmount. Affordable access to high-quality childcare, economic and social discrimination, and hurdles to self-determination and professional progression are some of the challenges women face.<sup>7</sup>

The authors dwell on the challenges and opportunities of female leadership in a time of systemic shock. The authors look at three examples of female leadership, resilience, and courage – the situations that call for more diversity and inclusion on the board of directors in the US, the story of Nonna Peppina in Italy, and the women's leadership role during natural disasters in Japan.

As more women print their stamp of change into the workforce and society, corporations in the U.S. will have to define new policies and take new approaches that contemplate their employees' new traits. In this

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4. Anneken Tappe, *There are More Single Working Women than Ever, and That's Changing the US Economy*, CNN BUSINESS (Aug. 29, 2019), [https://edition.cnn.com/2019/08/29/economy/single-women-economy/index.html?utm\\_medium=social&utm\\_term=link&utm\\_content=2019-12-27T06%3A29%3A04&utm\\_source=fbCNN&fbclid=IwAR3j9BPiFCXy3b0miY\\_CkEllz283mvHL7WyU8ra2BuO3Ky6\\_ZhooNIQSRLY](https://edition.cnn.com/2019/08/29/economy/single-women-economy/index.html?utm_medium=social&utm_term=link&utm_content=2019-12-27T06%3A29%3A04&utm_source=fbCNN&fbclid=IwAR3j9BPiFCXy3b0miY_CkEllz283mvHL7WyU8ra2BuO3Ky6_ZhooNIQSRLY) [<https://perma.cc/R32K-RZ9P>].

5. *Id.*

6. *Id.*

7. See generally Philomila Tsoukala, *Household Regulation and European Integration: The Family Portrait of A Crisis*, 63 AM. J. COMP. L. 747 (2015) (providing the Greek family as an example of one of the main sources of employment in the private sector during the Great Recession); Katharine K. Baker, *Supporting Children, Balancing Lives*, 34 PEPP. L. REV. 359 (2007) (advocating for a system of child support that helps break down the gender division of labor and therefore makes it easier for all parents to balance market and home work); Kerry Rittich, *Black Sites: Locating the Family and Family Law in Development*, 58 AM. J. COMP. L. 1023 (2010) (exploring how legal policies impacting the house affect gender equality).

context, the discussion about corporate board diversity led by Lécia Vicente comes into play. Here, the author stands by a substantive definition of diversity rather than a formal one. The author understands that diversity requires inclusion and respect for self-determination and autonomy regardless of gender, ethnicity, or socioeconomic status. A board of directors runs publicly-held corporations. However, empirically, corporations seldom adopt specific rules for diversity or the adoption of resolutions that require a particular number of women on the board.

Women's self-determination and autonomy are values shared by Lucia Ruggeri in the second narrative about an Italian woman called Giuseppa Fattori, also known in Italy as "Nonna Peppina." In an evolving society characterized by mobility and economic and forced migration, where so many women have to relocate to make a living, provide for their family, or build a career, the text exposes a case that revolves around the principle of human dignity and the human right to remain in one's place of origin. This right corresponds to an effective right not to "be taken somewhere else" because one's home is the place of affections, and its protection is the same as protecting the right to mental and physical integrity.

Kozue Kashiwazaki expands on the values of self-determination and autonomy to inform the concept of female leadership in Japan during a disaster. She narrates the example of the female leader, Ms. Shizuyo Yoshimura, who organized a shelter in the aftermath of the Japan Earthquake of 2011. Ms. Yoshimura is an exceptional example in a manifestly hierarchical society. Women are still lacking recognition for their efforts and contributions to the recovery and reconstruction processes in times of systemic shock.

## **A Survey of Gender Diversity in Corporate America—*Lécia Vicente***

### **A New Milestone for Gender Diversity**

In late 2009, the Securities and Exchange Commission (SEC) adopted item 407(c), which requires companies to disclose their diversity policies.<sup>8</sup> The author surveys the historical inequalities and recent gender diversity progress on corporate boards in the United States. Specifically, she discusses the gains and shortcomings of gender diversity on corporate boards since the SEC implemented item 407(c).

First, the author provides a general account of female representation in U.S. corporations. Next, she discusses quotas and disclosure-based approaches that countries worldwide have implemented over the last decade to increase gender diversity on corporate boards. She then takes a

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8. 17 C.F.R. § 229.407.

closer look at the SEC's disclosure rule and its effectiveness in increasing gender diversity on corporate boards. Finally, she explains how individual states in the U.S. have responded to the shortcomings of the SEC's disclosure rule.

### Gender Diversity on Corporate Boards

In 2019, the *Wall Street Journal* reported that a new milestone in gender diversity had been achieved – “There are no longer any all-male boards among S&P 500 companies,” the Journal reported.<sup>9</sup> More recently, the New York Times reported that “Jane Fraser will become the first woman to lead a major financial institution in the United States when she takes the reins at Citigroup, the country's third-largest bank.”<sup>10</sup> The fact that only just now these milestones were achieved sheds light on the severity of historical gender inequality among corporate boards. Despite this being a long-overdue change, these milestones signify that some progress is finally being made regarding gender diversity on corporate boards. But is it enough? Will it ever be enough?

In the U.S. corporation, like no other constituency, the board of directors holds power and influence. Such power and influence characterize corporate boards not just in the U.S. but in other countries as well.<sup>11</sup> The board of directors selects management officers, ensures that the corporation's and shareholders' interests are protected, and monitors the corporation's overall business and success. The directors are in charge and are the face of the business. If the corporation's purpose, besides making a profit, is to contribute to aggregate social welfare,<sup>12</sup> then the conversation about the composition of these boards is a critically important issue.

Despite the vital role these boards play in the corporate world and society, these boards' membership does not mirror the American population's diversity. Rhode and Packel point out that, in 2014, nearly three-quarters of members sitting on the corporate boards of the largest

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9. Vanessa Fuhrmans, *The Last All-Male Board on the S&P 500 IS No Longer*, THE WALL ST. J. (July 24, 2019), <https://www.wsj.com/articles/the-last-all-male-board-on-the-s-p-500-is-no-longer-11564003203> [<https://perma.cc/94YX-BWZ4>].

10. See *Citigroup's Fraser to be First Woman to Lead a Big Wall Street Bank*, N.Y. TIMES (Sept. 10, 2020), <https://www.nytimes.com/2020/09/10/business/citigroup-ceo-jane-fraser.html?smid=tw-share> [<https://perma.cc/4657-RQJX>].

11. See Harald Baum, *The Rise of the Independent Director: A Historical and Comparative Perspective*, MAX PLANCK INSTITUTE FOR COMPARATIVE AND INTERNATIONAL PRIVATE LAW (Aug. 28, 2017), <http://ssrn.com/abstract=2814978>; see Sofie Cools, *Shareholder Proposals Shaking up Shareholder Say: A Critical Comparison of the United States and Europe*, JAN RONSE INSTITUTE FOR COMPANY AND FINANCIAL LAW WORKING PAPER (June 12, 2020), <https://ssrn.com/abstract=3604535>; Torsten Spiegel, *Independent Directors in Japan – Changing Corporate Governance?*, 23 J. JAPAN. L. 85 (2018).

12. See REINIER KRAAKMAN ET AL., THE ANATOMY OF CORPORATE LAW 24 (3d ed. 2017).

American companies were white men.<sup>13</sup> The authors also highlight that women held only 16.9% of the board seats in Fortune 500 companies, 14.8% of Fortune 501-1000 board seats, and only 11.9% of board seats in Russell 3000 companies.<sup>14</sup> While these numbers are less than ideal, they show some progress.<sup>15</sup> And progress is commendable.<sup>16</sup> However, these numbers question whether, rather than merely meeting federal law prerequisites, enough has been done to promote more substantive diversity and inclusion on corporate boards and whether the current government intervention is sufficiently bold.<sup>17</sup> Answering these questions requires analyzing the problem of lack of diversity in boards of directors from a global standpoint and understanding how that may impact U.S. corporations.

### **A Global Approach to Improving Gender Diversity on Corporate Boards**

Government intervention to increase diversity and inclusion on corporate boards is relatively recent worldwide. Norway passed a quota system as early as 2003. In a publicly-held corporation with at least nine directors, Norway requires that women hold 40% of the board seats.<sup>18</sup> Spain

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13. See Deborah L. Rhode & Amanda K. Packel, *Diversity on Corporate Boards: How Much Difference Does Difference Make?*, 39 DEL. J. CORP. L. 377, 379 (2014) (stating that “[c]lose to three-quarters of members of corporate boards of the largest American companies are white men.”).

14. *Id.*

15. Yaron G. Nili, *Beyond the Numbers: Substantive Gender Diversity in Boardrooms*, 94 IND. L.J. 145, 165 (2019) (providing an empirical analysis of female directors’ actual role in the board of directors, which is something the author defines as substantive gender diversity).

16. In this debate, it is rarely disclosed if the end of progress is equal opportunities or equal outcomes. There is a huge difference, with consequences for both justice and incentives that are rarely discussed.

17. *Id.*

18. There is a strong perception that gender diversity on the board of directors is positive, mainly if specific measures are targeted at substantive diversity. See Katherine W. Phillips, *How Diversity Works*, SCIENTIFIC AMERICAN, (Oct. 2014); Meggin T. Eastman et al., *The Tipping Point: Women on Boards and Financial Performance*, MSCI, Dec. 2016, at 15, <https://www.msci.com/documents/10199/fd1f8228-cc07-4789-acee-3f9ed97ee8bb> [<https://perma.cc/WE96-HY3J>]. However, in advocating for more board diversity, the author does not dwell on the debatable question as to how gender diversity and firm performance are linked, considering that empirical data vary from country to country. Other variables such as the political economy philosophy of a country and corporate governance models, must be considered because they may originate additional challenges for female leaders. See W. Gary Simpson et al., *What Do We Know About Women on Boards?*, 20 J. OF APPLIED FIN. 1 (2010); Deborah L. Rhode & Amanda K. Packel, *Diversity on Corporate Boards: How Much Difference Does Difference Make*, 39 DEL. J. CORP. L. 377 (2014); Kenneth R. Ahern & Amy Dittmar, *Changing of the Boards: The Impact on Firm Valuation of Mandated Female Board Representation*, 127 Q.J. ECON. 137 (2012).

(2007), Iceland (2009), France (2010), Italy (2011), Belgium (2011), Denmark (2013), and Germany (2015) took similar steps to remedy inequality on corporate boards.<sup>19</sup> Outside Europe, the Companies Act, 2013 required India's listed companies and other specified companies to add one female director to the board of directors.<sup>20</sup> In the United States, in 2018, California became the first state to pass a law requiring that publicly-held corporations "whose principal executive offices" are in California must have at least one woman on their board by the end of 2019.<sup>21</sup> Then, by the end of 2021, they must have a minimum of two or three women depending on the board's size.<sup>22</sup>

The philosophy and policy approaches to board diversity vary significantly from country to country.<sup>23</sup> Norway, France, and Germany have stipulated strict gender quotas.<sup>24</sup> These quotas require that women occupy a specified percentage of board seats of publicly-held companies. In the Norwegian case, which has imposed one of the most salient gender quotas in the world, women have reportedly represented 40.5% of members on corporate boards. Companies that violate this quota system face severe

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19. See Linda-Eling Lee et al., *Women on Boards: Global Trends in Gender Diversity on Corporate Boards*, MSCI, at 24 (2015), <https://www.msci.com/documents/10199/04b6f646-d638-4878-9c61-4eb91748a82b> [<https://perma.cc/59EV-DWS8>].

20. See Afra Afsharipour, *The One Woman Director Mandate: History and Trajectory*, UC DAVIS LEGAL STUDIES RESEARCH PAPER SERIES, Dec. 2015, <https://ssrn.com/abstract=2686991>.

21. See Jill E. Fisch and Steven Davidoff Solomon, *Centros, California's "Women on Boards" Statute and the Scope of Regulatory Competition*, 20 EUROPEAN BUS. ORG. L. REV. 493 (2019).

22. S.B. 826, 2017-2018 Leg., (Cal. 2018). See also Fisch & Solomon, *supra* note 21; Joseph Grundfest, *Mandating Gender Diversity in the Corporate Boardroom: The Inevitable Failure of California's SB 826*, ROCK CENTER FOR CORPORATE GOVERNANCE AT STANFORD UNIVERSITY, Sept. 12, 2018 (claiming the unconstitutionality of California Law); Jena McGregor, *Some Companies Still Don't Have Any Female Directors. California Wants to Fine Them*, WASH. POST (Sept. 11, 2018), <https://www.washingtonpost.com/business/2018/09/10/there-are-companies-that-still-dont-have-any-female-directors-california-wants-fine-them/> [<https://perma.cc/SE7S-ERX9>]; Emily Stewart, *California Just Passed a Law Requiring More Women on Boards. It Matters, Even if It Fails*, VOX (Oct. 3, 2018), <https://www.vox.com/2018/10/3/17924014/california-women-corporate-boards-jerry-brown> [<https://perma.cc/2MRG-8WAS>]; Mary L. Walshok, *Why It's Time for More Women in the Boardroom*, SAN DIEGO UNION TRIBUNE (Nov. 21, 2018), <https://www.sandiegouniontribune.com/opinion/commentary/sd-utbg-women-boardroom-equity-california-20181121-story.html> [<https://perma.cc/2ZKJ-M58P>].

23. See Bettina C. K. Binder et al., *The Plight of Women in Positions of Corporate Leadership in the United States, the European Union, and Japan: Differing Laws and Cultures, Similar Issues*, 26 MICH. J. GENDER & L. 279, 282 (2019).

24. Amanda K. Packel, *Government Intervention into Board Composition: Gender Quotas in Norway and Diversity Disclosures in the United States*, 21 STAN. J.L. BUS. & FIN. 192, 206 (2016) (reviewing AARON DHIR, CHALLENGING BOARDROOM HOMOGENEITY: CORPORATE LAW, GOVERNANCE, AND DIVERSITY (2015)).



finest and penalties.<sup>25</sup> In the United States, rather than a quota system, the SEC adopted a disclosure rule<sup>26</sup>

### **Taking Stock of the SEC’s “Diversity” Disclosure Rule**

In the U.S., the SEC adopted a “disclosure-based” approach to gender diversity on corporate boards. It adopted § 229.407 in 2009. This rule requires publicly-held companies to (1) disclose whether, and if so how, the nominating committee (or the board) considers diversity in identifying nominees for director; (2) describe how the nominating committee’s (or board) policy with regard to the consideration of diversity in identifying director nominees is implemented if the nominating committee (or board) has such a policy; and (3) disclose how the nominating committee (or the board) assesses the effectiveness of its policy.<sup>27</sup>

However, the rule’s concept of diversity is not clear – it does not define what diversity is. While the rule requires disclosure, it does not mandate diversity. It does not require corporations to explain why they do not consider diversity in hiring corporate board members. By requiring disclosure, the SEC expects to encourage companies that are not adopting gender-diversity measures to adopt such measures to change the board of directors’ composition. However, because the SEC does not impose a diversity mandate, for the most part, this disclosure-based approach depends on the corporation to make the record straight and correct its board’s lack of diversity. The disclosure-based approach that SEC took to board diversity has generated positive gains over the last decade.<sup>28</sup> However, those results are far too slow. According to the findings of the United States Government Accountability Office (GAO):

Representation of women on the boards of U.S. publicly-traded companies has increased, but greater gender balance could take

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25. *Id.* at 205.

26. *See* 17 C.F.R. § 229.407.

27. (2) Provide the following information regarding the registrant’s director nomination process: [...] (vi) Describe the nominating committee’s process for identifying and evaluating nominees for director, including nominees recommended by security holders, and any differences in the manner in which the nominating committee evaluates nominees for director based on whether the nominee is recommended by a security holder, and whether, and if so how, the nominating committee (or the board) considers diversity in identifying nominees for director. If the nominating committee (or the board) has a policy with regard to the consideration of diversity in identifying director nominees, describe how this policy is implemented, as well as how the nominating committee (or the board) assesses the effectiveness of its policy. SEC Diversity Disclosure Rule, 17 C.F.R. § 229.407 (c)(2)(vi) (2020).

28. *See* U.S. GOV’T ACCOUNTABILITY OFFICE, GAO-16-30, CORPORATE BOARDS: STRATEGIES TO ADDRESS REPRESENTATION OF WOMEN INCLUDE FEDERAL DISCLOSURE REQUIREMENTS I, 6, 8 (2015), <http://www.gao.gov/assets/680/674008.pdf>.

many years. In 2014, women comprised about 16 percent of board seats in the S&P 1500, up from 8 percent in 1997. This increase was partly driven by a rise in women's representation among new board directors. However, even if equal proportions of women and men joined boards each year beginning in 2015, GAO estimated that it could take more than four decades for women's representation on boards to be on par with that of men's.<sup>29</sup>

There is no consensus around the merit of the current SEC rule. It is apparent, however, that corporations have not internalized board diversity as a norm. Thus, gender balance in corporate boards will take time. The GAO has signaled various elements that may hinder the increase of women's representation on the board. They boil down to three elements – boards not prioritizing diversity in recruitment efforts, lower representation of women in the traditional pipeline for board positions, and low turnover of board seats.<sup>30</sup> The reliance of board members on their personal networks, the unconscious bias that leads board members to seek other directors that look and behave like they do and cater to a certain level of comfort in the board, the existence of an invisible cap as to the number of women that board members are willing to hire, the disinvestment of board members in making diversity a priority, and lower levels of board turnover hinder the prospects of women benefiting from the SEC rule.

There are several measures the SEC could adopt to overcome the shortcomings of the rule. It could improve disclosure requirements. It could take a “comply-or-explain” approach that demands corporations to explain why they do not have a diversity policy. It could implement nudging strategies that require corporations create a diverse slate of candidates that includes at least one woman. Those strategies should nudge corporate boards to take necessary steps to expand their board searches, expand board size, conduct board performance evaluations, adopt term limits, and create a clear list of target goals for developing human capital and monitoring progress.<sup>31</sup>

### **American Federalism Working Itself Toward Gender Diversity**

The adoption of a gender quota to increase board diversity has been a highly debated topic in the U.S.<sup>32</sup> Finding a consensus may be even harder due to the country's political structure. Despite the lack of consensus, a quota-based system for gender diversity on corporate boards has gained momentum across the U.S. As of 2018, California has implemented gender

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29. *Id.*

30. U.S. GOV'T ACCOUNTABILITY OFFICE, *supra* note 28, at 13.

31. *Id.* at 16-20.

32. *See* Packel, *supra* note 24, at 194.

quotas for corporate boards in the state.<sup>33</sup> Several other states, including Hawaii, Massachusetts, Michigan, New Jersey, and Washington, are considering or already adopting mandatory gender quotas for corporate boards that resemble California's law.<sup>34</sup> California's law mandates a gender quota on the boards of directors of publicly-held corporations with their "principal executive office" in the state.<sup>35</sup> The law imposes a \$100,000 fine for the first violation and a \$300,000 fine for every subsequent violation. Hatcher and Latham discuss the fact that

[a]ccording to a March 4, 2020, report from California Secretary of State Alex Padilla, only 330 of 625 covered companies filed the required reports about their boards' diversity. Of those that filed, 37 reported having zero women on their boards as of Dec. 13, 2019—a violation of the requirement to have at least one female director by that time.<sup>36</sup>

As a result, the 295 corporations that missed filing the report, and the 37 corporations that did file but failed to meet the gender quota will pay a \$100,000 fine. Any subsequent violations by the corporations will result in a \$300,000 fine.

The passage of gender quotas in California contrasts significantly with the SEC's disclosure-based rule. Several states are following suit and will soon have gender quotas of their own.<sup>37</sup> However, whether the federal government will also follow suit and replace its disclosure-based approach with gender quotas remains an open question. For the time being, it is unlikely that the U.S. government will adopt a quota-based approach to promote gender diversity on corporate boards. First, states can pass gender quotas on their own. Second, it is crucial to garner enough political support for a nation-wide quota system. That takes time. Third, the U.S. Congress is currently working on a bill that would patch the flaws to the SEC rule previously mentioned.<sup>38</sup> Suppose a blanket gender quota seemed like a feasible option. Then, policymakers and other stakeholders would not be focused on patching up a disclosure-based approach if they felt a quota-

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33. See Fisch & Solomon, *supra* note 21; Grundfest, *supra* note 22.

34. See Cydney S. Posner, *A New Milestone for Board Gender Diversity*, HARV. L. SCH. F. ON CORP. GOVERNANCE (Aug. 15, 2019), <https://corpgov.law.harvard.edu/2019/08/15/a-new-milestone-for-board-gender-diversity/> [https://perma.cc/QB98-DJHF]; Michael Hatcher & Weldon Latham, *States are Leading the Charge to Corporate Boards: Diversify!*, HARV. L. SCH. F. ON CORP. GOVERNANCE (May 12, 2020), <https://corpgov.law.harvard.edu/2020/05/12/states-are-leading-the-charge-to-corporate-boards-diversify/> [https://perma.cc/GS8S-93VD].

35. CAL. CORP. CODE §§ 301.3, 2115.5 (2018) (amending the State Corporations Code).

36. See Hatcher & Latham, *supra* note 34.

37. See Posner, *supra* note 34; Hatcher & Latham, *supra* note 34.

38. See Lori Tripoli, *House Passes Bill Requiring Disclosure of Diversity on Corporate Boards*, COMPLIANCE WK. (Nov. 20, 2019), <https://www.complianceweek.com/regulatory-policy/house-passes-bill-requiring-disclosure-of-diversity-on-corporate-boards/28084.article> [https://perma.cc/GZG6-K434].

based approach was within grasp. It is unlikely that the United States will adopt a national gender quota system for corporate boards anytime soon. However, the U.S.'s federalist government system may form a *de facto* quota system across several states if the state governments independently adopt gender quotas.

### Conclusion

The author approached the historical debate about corporate board inequalities in the U.S. Then, she discussed some of the recent developments regarding gender diversity on corporate boards globally. By comparing the U.S. disclosure-based approach with the quota-based approach of several European countries, the author maintained that although gender diversity on corporate boards is improving in the U.S., more can be done and must be done to increase the rate of these improvements. She summed up by explaining that the American federalist system allows states to take matters into their own hands, which could potentially make the United States a *de facto* quota-based country.

There is still a lot to do. Recent gains in gender diversity are due to recent government intervention, whether that be through gender quotas or diversity disclosure.<sup>39</sup> In a time of systemic shock caused by the COVID-19 pandemic and the inherent economic crisis, it is time to think of female leadership as a solution rather than a commodity. Given the changing social demographics and societal dynamics, the conversation about female leadership is not only one worth having but one that governments must keep on having for a long time. A clear and intentional roadmap for action is much needed. That roadmap should be one that specifically contemplates the Sustainable Development Goals (SDGs) outlined in the United Nations 2030 Agenda for Sustainable Development. The author points out SDG 5 (“[to] [a]chieve gender equality and empower all women and girls”), SDG 8 (“[to] [p]romote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all”), SDG 10 (“[to] [r]educe inequalities within and among countries”), and SDG 16 (“[to] [p]romote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.”)<sup>40</sup>

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39. See Linda-Eling Lee et al., *supra* note 19; U.S. GOV'T ACCOUNTABILITY OFFICE, *supra* note 28.

40. See G.A. Res. 70/1, Transforming our World: The 2030 Agenda for Sustainable Development, at 6, 14 (Oct. 21, 2015).

## Loss of the Home and the Right to Remain in One's Place of Origin: The Story of Nonna Peppina—*Lucia Ruggeri*

### Loss of the Home and the Right to Remain in One's Place of Origin: The Story of Nonna Peppina

Being a woman once meant being fragile and vulnerable; a condition that could still be true today when women are forced to face a traumatic event, such as the loss of their affections and belongings caused by disasters like a catastrophic earthquake. This has been the experience of many women who lived in the regions of central Italy hit by an earthquake in 2016.

The story of Giuseppa Fattori, known in Italy as “Nonna Peppina,” seems particularly relevant in this respect. Giuseppa, who was “a girl” of the year 1922, lived in the small hamlet of Moreggini in San Martino di Fiastra, in the very heart of the Monti Sibillini National Park.<sup>41</sup> The earthquake made Giuseppa’s house unfit for use, compelling her to abandon it after seventy-two years of living in this area.<sup>42</sup> Just like Giuseppa, 582,588 people were deprived of their homes and had to move, generally to remote areas.<sup>43</sup> In the Marche Region, where Giuseppa now lives, 28,500 people have benefited from an autonomous accommodation subsidy (Contributo di Autonomia Sistemazione (CAS)) to live in housing which was in most cases located in municipalities away from their home that had become unfit for use.<sup>44</sup> As many as 3,400 persons were settled in reception facilities on the Adriatic coast.<sup>45</sup> Migration from mountainous regions to the coast caused disbalance, and an attempt was made to remedy this through the development of Emergency Housing Solutions (Strutture Abitative d’Emergenza (SAEs)), which have been progressively built from

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41. See AGATA TURCHETTI, *LE FAGLIE DELLA MEMORIA. LA COMUNITÀ DI SAN MARTINO DI FIASTRA TRA NOSTALGIA DEL PASSATO E VOLONTÀ DI FUTURO* (Agata Turchetti ed., 2017) (contains a lucid testimony of the wish to return to live in places hit by the earthquake).

42. The Monti Sibillini National Park is an Italian Organization founded by Presidential Decree (D.P.R.) on 6 August 1993. For a description of this area, see PARCO NAZIONALE DEI MONTI SIBILLINI (Feb. 21, 2020), <http://www.sibillini.net/index.php> [<https://perma.cc/2TBK-S72M>].

43. For data concerning the affected population, see PRESIDENZA DEL CONSIGLIO DEI MINISTRI, *LA POPOLAZIONE COLPITA DAL TERREMOTO IN CENTRO ITALIA* (Oct. 10, 2017), <https://sisma2016.gov.it/2017/10/10/la-popolazione-colpita-dal-terremoto-centro-italia/>.

44. In the Giuseppa’s Region 45,147 houses were damaged by the earthquake. See “FLASH REP” SISMA CENTRO ITALIA (2019), [https://sisma2016.gov.it/wp-content/uploads/2020/02/FlashRep\\_Restyling\\_13\\_febbraio\\_mappe\\_e\\_personale.pdf](https://sisma2016.gov.it/wp-content/uploads/2020/02/FlashRep_Restyling_13_febbraio_mappe_e_personale.pdf).

45. Emergency Live, *Terremoto centro Italia: i numeri dell'emergenza*, EMERGENCY LIVE (Mar. 3, 2020), <https://www.emergency-live.com/it/protezione-civile/terremoto-centro-italia-i-numeri-dellemergenza/> [<https://perma.cc/T3WU-HYR3>].

August 2017 in 28 municipalities in the crater area of the Marche Region, and which will be able to house approximately 4,400 persons.<sup>46</sup>

In this context, Nonna Peppina emerges as a “champion” of the right to choose to remain in locations of origin, without being forced to leave the place where she has lived her entire life. After living seven months with her daughters and against the wishes of her family, Giuseppa decided to reclaim an old container that had been used during the previous earthquake of 1997 to live in her Moreggini di Fiastra.<sup>47</sup> After having lived 7 months with her daughters, and against the wishes of her family, Giuseppa, decided to reclaim an old container that had been used during the previous earthquake of 1997 to return to live in her Moreggini di Fiastra.<sup>48</sup> Her family made an effort to build, on land that they owned, a temporary wooden dwelling where Giuseppa could live in a more dignified manner, avoiding health risks caused by staying in the derelict container.<sup>49</sup> A wooden house was built in 2017 on land suitable for building, within the park, without the necessary with construction permits.<sup>50</sup> Thus, the house was seized, Nonna Peppina was evicted, and criminal proceedings were initiated against her family for illegal construction.<sup>51</sup> After a wave of public outrage, the Government introduced a provision protecting those who had acquired a dwelling from incurring criminal consequences, while simultaneously fully regulating the different ways and timelines when the use of a provisional dwelling may cease.<sup>52</sup> The provision was effectuated as a result of the housing emergency caused by the earthquake. As a result, Nonna Peppina’s family members were acquitted.

### **The Protection of Home as the Place of Affections and the Right to Remain in Places of Origin: the Existential Dimension of Property Relations**

Nonna Peppina became a symbol of post-earthquake resilience – a heroine – just like Edith Macefield who, wishing to remain in her house in Seattle, rejected a one-million-dollar offer by a real estate investment company that wanted to demolish Edith’s house to build a shopping mall.<sup>53</sup>

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46. Luca Domenella et al., *Dall'emergenza alla ricostruzione dei territori fragili*, EYESREG (2020), <http://www.eyesreg.it/2020/dallemergenza-alla-ricostruzione-dei-territori-fragili/>.

47. TURCHETTI, *supra* note 33.

48. *Id.*

49. *Id.*

50. *Id.*

51. *Id.*

52. Testo Coordinato Del Decreto-Legge n.189 (Oct. 17, 2016).

53. *The Amazing True Story of the Woman who Inspired the Movie “Up”*, ALETEIA, (Mar. 11, 2014), <https://aleteia.org/2014/03/19/the-amazing-true-story-of-the-woman-who-inspired-pixars-up> [<https://perma.cc/YM8K-62DR>].

The protection of one's home as a place of affections knows no limits and that seems to gain particular importance for women like Peppina and Edith who have acted with tenacity to take care of their family. The legal relevance of "home," not just as an economic value, but also as an affective one, is explicitly covered in Article 8 of the European Convention for the Protection of Human Rights, where paragraph 1 reads: "Everyone has the right to respect for his private and family life, his home and his correspondence."<sup>54</sup> As clarified by the European Court, any interference with a right with respect to home may only be justified for reasons necessary in a democratic society, and if conducted in a proportionate manner, with regard to the legitimate aim pursued and the particular circumstances of the case.<sup>55</sup> No national law provision may be interpreted or applied in a manner that is incompatible with the obligation of the State to protect private life and the home where life is lived.<sup>56</sup> The protection of home is an instrument protecting existential interests, such as an "individual's identity, self-determination, physical and moral integrity, maintenance of relationships with others and a settled and secure place in the community."<sup>57</sup>

In Peppina's case, this constituted a double loss: the destruction of her house by the earthquake, and the place of origin that Peppina had to leave in order to benefit from alternative housing solutions proposed by the public authorities. The emergency self-construction in the beloved location was incompatible with a legal framework that did not take adequately into consideration the "affective" and "existential" interests, which are particularly important in the cases of victims of catastrophes. The wooden house was constructed in an emergency, for non-speculative reasons, for the sole purpose of providing the elderly lady with some form of accommodation pending the imminent arrival of winter. It was constructed for non-patrimonial interests that the regular legislation does not explicitly cover – interests certainly worthy of protection in the light of the Constitution and European and international principles.<sup>58</sup>

Even though it is not explicitly covered, it seems important to state that the right "to remain in one's place of origin" responds to an affective need of not "being taken somewhere else," which is particularly worthy of being protected. If the home is understood as the place of affections and its protection is not the protection of the right to property, but that of the right

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54. COUNCIL OF EUROPE, CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS AS AMENDED BY PROTOCOLS NO. 11 AND NO. 14 (2010).

55. *Id.*

56. *See* Stanková v. Slovakia, App No. 7205/02 Eur. Ct. H.R. (2007).

57. *See* Gladysheva v. Russia, App No. 7097/10 Eur. Ct. H.R. (2011).

58. The Italian Constitution is characterized by the prominent importance of the value of the human person. *See* P. PERLINGIERI, LA PERSONALITÀ UMANA NELL'ORDINAMENTO GIURIDICO 1-551 (Jovene 1972).

to mental, and not just physical, integrity. The destruction of the material home must not be accompanied by the loss of places and of the community where one is accustomed to living. The merits of Peppina's case drew the magistrate's attention to a protection interest that is rarely taken into account and which is worth being more thoroughly considered. Remaining in places of origin is an issue that affects those who are compelled to forcibly leave them (for example, during a war, or to find a job). It has been analyzed mostly by those who investigate migration phenomena or problems caused by refugees,<sup>59</sup> but, in Peppina's case, this issue is viewed in a different manner, and refers to those who are elderly and can find comfort, albeit just psychological comfort, only by remaining in places of origin affected by destruction caused by the earthquake.

Wherever possible, these interests must be protected and not neglected; "deportation" would be disproportionate if it could be avoided. Peppina could meet this interest without asking anything from the State,<sup>60</sup> but, almost paradoxically, she hit an obstacle precisely in the form of public authority. This obstacle was removed *ex post* by an *ad hoc* legal measure which finds solid foundations with an axiological interpretation<sup>61</sup> open to European and international sources.

The abundant jurisprudence developed in the matter of Article 8 of the ECHR supports an interpretation favoring the protection of the interests zealously advocated by Nonna Peppina: the protection to be provided in the case of a violation of Article 8 was much broader than the violation of the mere right to property. In the Italian legislation, the protection of the human person, as a major value, leads to a reassessment of the case of Nonna Peppina's case, which favors striking a balance between private interests of an existential nature on the one hand and public interests on the other. In an inadequately managed emergency situation, respecting the procedures needed to build with all the authorizations required by the regular legislation means undermining the mental and physical health of an elderly person who longs to be allowed to live and die in familiar surroundings. The Court, taking regard of the effective implementation of Article 8, has consistently established that the State has "positive" obligations, and must thus adopt measures that favor the protection of the interests referred to in Article 8. These concepts have been thoroughly outlined, for example, with reference to the loss of dwellings caused by floods from rivers bursting their banks. The loss of a home caused by the inefficient management of the river banks by the competent authorities represents a violation of the right to

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59. See U.N. High Commissioner for Human Rights, *Right to Adequate Housing*, Fact Sheet No. 21, Rev. 1, p. 25 (2014).

60. As shown in the pleadings compiled by Mr. Pettinari, attorney of Nonna Peppina's family members, the wish to remain in one's birthplace does not represent any burden on the State.

61. See P. Perlingieri, *Legal Principles and Values*, 3 ITALIAN L. J. 1, 125-147 (2017).



respect for one's home referred to in Article 8.<sup>62</sup> In this context, the removal of persons from their living environment constitutes a violation of Article 8, if this is done in a manner that does not take adequately into account the problems of vulnerable persons, such as, for example, ethnic minorities who, due to their culture, choose non-traditional dwellings.<sup>63</sup> Nonna Peppina's vulnerability is of another type, and it seems that it has not yet been adequately explored. This vulnerability belongs to persons who suddenly lose their home during a stage of life when their health, which is not just physical, is highly fragile.

A remark seems important here: in the matter of "dwelling", it has been observed that in many cases women were the ones who brought actions and won media and procedural battles.<sup>64</sup> From "domestic angels" to "[v]estals of the protection of their own roots," a female challenge is to be won, even when the home has been destroyed and the State forgets to see in it the expression of existential aspects.

### **Female Inclusion and Leadership during Disaster Recovery in Japan – Kozue Kashiwazaki**

How to involve the female needs and perspectives in the disaster recovery process is one relatively new issue in the long history of natural disasters in Japan.<sup>65</sup> In 2011, the Great East Japan Earthquake caused tremendous damage that required a long time for the recovery.<sup>66</sup> Female vulnerability was vividly revealed by the number of physical and mental diseases and crimes against women such as domestic violence and sexual

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62. See *Kolyadenko v. Russia*, App. No. 17423/05 Eur. Ct. H.R. (2012).

63. See *Connors v. United Kingdom*, App. No. 66746/01 Eur. Ct. H.R. (2004); *Yordanova v. Bulgaria*, App No. 25446/06 Eur. Ct. H.R. (2012); *Winterstein v. France*, App No. 27013/07 Eur. Ct. H.R. (2013); *Buckland v. United Kingdom*, App No. 40060/08 Eur. Ct. H.R. (2012); *Bagdonavicius et alia v. Russia*, App No. 19841/06 Eur. Ct. H.R. (2016). The right to remain has also been explored by the World Justice Project regarding the residents of Brazil's favelas. See WORLD JUSTICE PROJECT, *The Right to Remain*, <https://worldjusticeproject.org/photo-essays/right-remain>.

64. The Giuseppa's wooden house was seized and Giuseppa's family members were tried for building abuse. On 29 October 2019 the criminal procedure was closed and family members were acquitted on charges (Court of Macerata, Judgement 1966/19). For a description of the Giuseppa's legal matters see Giovanni De Franceschi, *Nonna Peppina, la casetta non si tocca: Cade l'accusa di abuso edilizio assolti dopo due anni di calvario*, CRONACHEMACERATESI.IT (Oct. 28, 2019), <https://www.cronachemaceratesi.it/2019/10/28/nonna-peppina-la-casetta-non-si-tocca-cade-laccusa-di-abuso-edilizio-assolti-dopo-due-anni-di-calvario/1318609/> [https://perma.cc/3YMS-J3G6].

65. Yoshihama et al., *Violence Against Women and Children After the Great East Japan Disasters: Results from a Case-Finding Survey*, WOMEN'S NETWORK FOR EAST JAPAN DISASTER (2014), [http://risetogetherjp.org/wordpress/wp-content/uploads/2015/12/bouryo\\_kuchosa4.pdf](http://risetogetherjp.org/wordpress/wp-content/uploads/2015/12/bouryo_kuchosa4.pdf).

66. *Id.*

harassment at shelters or temporary houses.<sup>67</sup> Women's safety is strongly related to protecting children, the elderly, and disabled people in the family and community.<sup>68</sup> Facilitating an efficient and sustainable recovery process out of a situation of disaster or systemic shock by learning how to promote female leadership will be one of the critical elements of policy and regulation in Japan.<sup>69</sup>

The author focuses on two backgrounds to explain why female leadership is still not representative of Japan. The first is a historical statement of law and regulation regarding disaster recovery. The second is the structural issue of local community organizations considered with the gender index. After reviewing and understanding the background, the author will introduce the latest guideline focusing on gender equality and case studies regarding the Kumamoto earthquake in 2016.

### Background: Law and Planning Regarding Disasters

“復旧”(Fukkyu) and “復興”(Fukko) are the most common words used in the discussion of disaster recovery in Japan. Both words have “復,” which means back or return. “旧” means “before” or “past.” Further, “興” means “start” or “flourish.” The translation into English is RECOVERY and RECONSTRUCTION (sometimes REVIVAL). The former word tends to be used with respect to physical undertakings, such as necessary infrastructure and facilities. The latter word is used for more comprehensive purposes, including social, environmental, and life.

The word of 復興·RECONSTRUCTION had not appeared instead of 復旧·RECOVERY in the law and regulation regarding the disaster until 1961.<sup>70</sup> In 1961, the “Disaster Counter-Measure Fundamental Law” was adopted.<sup>71</sup> This piece of legislation has been amended more than fifty times so far. At first, the law stated that the central government could proceed with the “Reconstruction Plan” based on the law. There was not a statement covering what the provincial governments and municipalities could do. Without legal force to activate the reconstruction plan in the areas covered by the provincial government and the respective municipality, residents and communities did the reconstruction by themselves.<sup>72</sup> Maki provides a

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67. Yoshihama, *supra* note 65.

68. Gender Equal. Bureau Cabinet Off., at 3.

69. See Bettina C. K. Binder et al., *supra* note 23, at 292 (supporting the idea conveyed in the text that “Japanese women have long been underrepresented in positions of power”).

70. HIDEYUKI KOBAYASHI, EMPIRICAL RESEARCH ON RECONSTRUCTION FROM LARGE-SCALE DISASTER AT THE EARLY STAGE 19 (2020).

71. *Id.*

72. KOBAYASHI, *supra* note 70.

critique that due to the trauma, the Japanese tend to recover quickly without social consensus for the long-term vision and feel there is the possibility of losing lives if one does not do better quickly.<sup>73</sup>

In a disaster, most of Japan's recovery actions have focused on physical undertakings. The reconstruction of social life, mostly managed by women, has not been historically covered by the law. However, the legislative approach has been changing since the Great East Earthquake in 2011. The Central Government has implemented several measures promoting gender equality in its latest Reconstruction Plan and Basic Plan:

Increase the ratio of women on the committees relating to disaster prevention;

Promote women's participation in the protection activities at the provincial and municipal levels;

Reflection on women's needs at the shelter, which includes providing women with space for laundry and breastfeeding, protecting privacy, and setting alert bells;

Consider women's needs for the construction and management of temporary houses;

Consider women's participation after a disaster and during the reconstruction process.<sup>74</sup>

The Central Government's legislative plan mentioned that women's involvement in the decision-making process after a disaster benefits women and other vulnerable populations such as children, youth, the elderly, disabled people, LGBT individuals, and foreigners.<sup>75</sup> This idea aligns with Japan's perspectives for sustainable development in a changing society.<sup>76</sup> Even though the legislature began to empower female participation and leadership through policy guidelines, empowering autonomous and self-determined female leadership is still an issue.

### **Background: Leadership as a Position**

Neighborhood associations (also called community associations) are the most common local organizations for residents in Japan.<sup>77</sup> These

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73. NORIO MAKI, *DISASTER RECONSTRUCTION PLANNING: TOWARD LARGE-SCALE DISASTER* (2013).

74. Danjo Kyōdō Sankakukyoku [Gender Equal. Bureau Cabinet Off.], *Saigai Taiō-ryoku O Kyōka Suru Josei No Shiten: Danjo Kyōdō Sankaku No Shiten Kara No Bōsai Fukkō Gaidorain* [Woman's Aspect to Strengthen Disaster Resilience: Guideline for Disaster Protection and Reconstruction from The Aspect of Women] (2020), <http://www.gender.go.jp/policy/saigai/fukkou/pdf/fukkou-gideline.pdf>.

75. *Id.*

76. *Id.*

77. NOBUYUKI SAKAI [City Planning Institute of Japan], *CITY AND COMMUNITY DEVELOPMENT* 103 (Gakugei Shuppansha 2011)

associations are under the responsibility of the government.<sup>78</sup> Participation in these associations' activities is voluntary.<sup>79</sup> They manage activities such as festivals and cleaning programs to maintain a comfortable living environment and cultivate a feeling of solidarity, which is essential when a disaster strikes.<sup>80</sup> The critical point is that committee members like women, children, youth, and elderly groups organize these neighborhood associations.<sup>81</sup> Most women take care of the women and children groups. In this context, many active women are working for the local community, but it not easy to be a local leader.

The global gender index illustrates this. The "Global Gender Gap Report 2020" issued by the World Economic Forum in December 2019 gave Japan a total score of 0.652, making it the 121st of 153 countries.<sup>82</sup> This was the lowest score among developed countries. Although the Japanese government tried to encourage women's participation in leadership through reforms like "Womenomics Strategy" in 2013, which aimed to make the ratio of females more than 30% in leadership positions, the current ratio is relatively lower than expected.<sup>83</sup> The database of international labor statistics in 2019 showed that the upper managerial position ratio was 14.9% in Japan, as opposed to 40.7% in the USA and 27.0% in Italy.<sup>84</sup> The lack of women in leadership roles in Japan is severe, especially in the field of disaster management. According to the report in 2019, among the disaster management offices in a municipality, women comprise approximately 6% of volunteers, and only 2.5% are in leading positions.<sup>85</sup>

### **Case Study: Women leadership at a shelter of 2016 Kumamoto earthquake**

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78. *Id.* at 107-108.

79. *Id.* at 113

80. *Id.*

81. *Id.*

82. WORLD ECONOMIC FORUM, THE GLOBAL GENDER GAP REPORT 2020 9, 31, 201 (2019).

83. Kōsei Rōdō Shō [Ministry of Health, Labor & Welfare], *Ryō Kazu Moto Nendo Koyō Kintō Kihon Chōsa* [Basic Survey of Gender Equality in Employment Management in fy2019] (2020), <https://www.mhlw.go.jp/toukei/list/71-30r.html>.

84. The Japan Institute for Labor Policy and Training, DATABOOK OF INTERNATIONAL LABOUR STATISTICS 146 (2019), <https://www.jil.go.jp/kokunai/statistics/databook/2019/documents/Databook2019.pdf>.

85. Symposium, *Bōsai-gen Wazawai To Danjo Kyōdō Sankaku* [Disaster Prevention, Mitigation and Gender Equality], 2017 *Nendo Josei Chiiki Jūmin Kara Mita Bōsai Saigai Risuku Sakugen-saku Ni Kansuru Chōsa Hōkoku* [Survey Report For Disaster Management and Risk Mitigation from The Aspect of Female and Local Residents in 2017], 66 THE UNIV. OF TOKYO INST. OF SOC. SCI. RES. SERIES 1 (2019), [https://jwww.iss.u-tokyo.ac.jp/publishments/issrs/issrs/pdf/issrs\\_66\\_01.pdf](https://jwww.iss.u-tokyo.ac.jp/publishments/issrs/issrs/pdf/issrs_66_01.pdf).

There are many cases showing women are active in supporting their families and protecting their communities. In a community, women's roles are often considered significant. It involves supporting resident's daily needs such as preparing food, washing clothes, and bonding with neighbors. Even though there is much participation by local women, leaders are still in demand to promote a common understanding and further vision of reconstruction.<sup>86</sup>

The author describes the case of one female leader, Ms. Shizuyo Yoshimura, an outstanding female leader who improved the management of a shelter. She took a new approach to protecting the residents' rights by not relying on the top-down and external support to her community.<sup>87</sup>

Mashiki city is located on the outskirts of Kumamoto, which increased the city's population as a "commuter town."<sup>88</sup> To promote the sense of community for the new residents and to preserve the local traditional culture, 35 residents established the Mashiki Revitalization Lab in 1992. The activities in the "lab" included environmental management, such as cleaning canals and planting flowers with volunteers, as well as cultural protection, such as learning local traditional sacred music and dance, and building capacity through lectures and seminars. Ms. Yoshimura was one of the members participating in these activities with many volunteers.<sup>89</sup>

On April 14 and 16, 2016, two consecutive earthquakes, with a peak seismic intensity of 7 on a scale of 0 to 7, occurred in Kumamoto, causing the most severe damage ever recorded. More than 180,000 people had to evacuate for several nights to shelters, open spaces, and cars.<sup>90</sup> The latest record in 2019 shows that there were 273 deaths and 2,809 injuries. In total, 8,667 houses collapsed completely, and approximately 200,000 homes were partially destroyed.<sup>91</sup>

Meanwhile, Mashiki city also recorded a highest seismic intensity earthquake,<sup>92</sup> where 7.96.2% of residents were affected and 35% of houses collapsed completely. The victims evacuated to an emergency shelter in a gym of a local elementary school. While there were 166 beds, the space was congested.<sup>93</sup> There was no space for people in wheelchairs to move

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86. Gender Equal. Bureau Cabinet Off., *supra* note 76, at 21-22.

87. Interview with Ms. Yoshimura (July 2019).

88. JAPAN INT'L COUNCIL ON MONUMENTS & SITES [ICOMOS] NAT'L COMM., THE KUMAMOTO EARTHQUAKE: REPORT ON THE DAMAGE TO THE CULTURAL HERITAGE 19 (Dec. 1, 2017), <http://www.japan-icomos.org/pdf/TheKumamotoEarthquakeWeb180109.pdf>.

89. Interview with Ms. Yoshimura, *supra* note 87.

90. JAPAN INT'L COUNCIL ON MONUMENTS & SITES [ICOMOS] NAT'L COMM., *supra* note 88, at iii.

91. NAIKAKUFU [Cabinet Office], *Report of Damage of Kumamoto Earthquake in 2016* (2019), [http://www.bousai.go.jp/updates/h280414jishin/pdf/h280414jishin\\_55.pdf](http://www.bousai.go.jp/updates/h280414jishin/pdf/h280414jishin_55.pdf).

92. JAPAN INT'L COUNCIL ON MONUMENTS & SITES [ICOMOS] NAT'L COMM., *supra* note 88, at 10.

93. Interview with Ms. Yoshimura, *supra* note 87.

around.<sup>94</sup> In this mass destruction scenario and chaos, Ms. Yoshimura organized the residents to find more space, providing better mobility.<sup>95</sup> When she realized that it would take a long time for people to go back to their own homes, due to the damage level, she decided to further organize the shelter victims.<sup>96</sup> As a next step, they created a community café and a kid's salon at the shelter.<sup>97</sup> The goal was to make a place for people to take time to relax and communicate with each other.<sup>98</sup>

They also set up a reception desk in the shelter to protect the privacy of the victims.<sup>99</sup> Ms. Yoshimura secured the shelter as if the place was for daily living.<sup>100</sup> Even though the activities were organized, Ms. Yoshimura did not impose any rules or assign any roles.<sup>101</sup> The only policy she implemented was that all participation and contribution in the shelter should be voluntary instead of enforcement through law and order.<sup>102</sup> Through the experience, Ms. Yoshimura found no difference between a specific government-run shelter and the shelter she ran organically.<sup>103</sup> Despite the emergency, establishing trust and rapport among one another was essential.<sup>104</sup>

The residents stayed engaged in the community and moved together to new temporary houses after a four-month stay at the shelter run by Ms. Yoshimura, with whom they built a good relationship.<sup>105</sup> In the area of the new temporary houses, eleven community public houses, called "House For Everyone," were built.<sup>106</sup> The public houses allowed residents to improve their living environment as volunteers and enjoy recreation freely.<sup>107</sup> The community café built under Ms. Yoshimura's leadership in the shelter was maintained as a symbol of the people's self-regulation with minimal to no state intervention after the disaster.<sup>108</sup> Such a phenomenon could not have happened without Ms. Yoshimura's strong, inclusive, insightful, and compassionate female leadership.

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94. *Id.*

95. *Id.*

96. *Id.*

97. *Id.*

98. *Id.*

99. *Id.*

100. *Id.*

101. *Id.*

102. *Id.*

103. *Id.*

104. *Id.*

105. *Id.*

106. *Id.*

107. *Id.*

108. Interview with Ms. Yoshimura, *supra* note 87.

## Lessons Learned

The challenging experiences posed by large-scale disasters eventually led the legislative body and policymakers to seriously reconsider women's roles in the leadership of law and planning. However, in the early twenty-first century, Japan was only at the beginning of this process. We just began to realize that women could contribute to the country's development through their domestic work and daily activities, which are not directly reflected within typical leadership positions.

There are several styles of leadership, and the author highlights Ms. Yoshimura's style. With her charisma and compassion, Ms. Yoshimura galvanized the affected population without assigning roles or imposing rules, even though the legislative planning guidelines appreciate authoritarian processes. The adoption of an effective legal framework during a disaster must consider women's interests, capabilities, and opportunities that come with their leadership. Governments and policymakers must take a bottom-up approach to acknowledge and evaluate the importance of activities developed by women at the local community level. They must build attentive bridges of communication among those local communities and go beyond gender profiling when it comes to maintaining or creating a leadership position.

## Conclusion

The authors tell three tell-tale narratives about individual and systemic challenges to female leadership across three different political landscapes, economies, and cultures. The narratives are told from the backdrop of the current historic moment under the effects of the COVID-19 pandemic and an unprecedented economic crisis. However, with the never-ending questions related to finding an equilibrium among economic development, the development of human capabilities,<sup>109</sup> and the protection of vulnerable people,<sup>110</sup> the authors believe now the right time to stress the issues they reckon must not be sidelined in this broader discussion. The authors focus on the diversity of corporate boards and inclusion in the U.S. and globally, women's resilience under overwhelming bureaucracy, and women's resilience in trying situations that test women's integrity, character, and sense of leadership to the core, even when the society is not designed to welcome them as leaders. Lécia Vicente further elaborated an idea of political commitment toward substantive diversity for corporate boards in

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109. See generally Amartya Sen, *Equality of What?*, 1 THE TANNER LECTURE ON HUMAN VALUES 197, 218-20 (Sterling M. McMurrin et al. eds., 2011) (providing an alternative definition of equality: "basic capability" equality).

110. See generally David Mechanic & Jennifer Tanner, *Vulnerable People, Groups, and Populations: Societal View*, 26 HEALTH AFF. 1220 (2007).

the form of a roadmap, which aligns with the 2030 Agenda of United Nations for Sustainable Development. Lucia Ruggeri discussed women's self-determination. She sets forth an argument for protecting one's home as a place of affections because it is a human right covered by Article 8 of the European Convention for the Protection of Human Rights. Kozue Kashiwazaki calls our attention to a fundamental conceptualization of leadership. She takes a bottom-up approach to the definition of leadership that is anchored in community development where women play a quiet but indisputably transformative role. The three narratives depict circumstances that uniquely shape female leadership in three different parts of the world. Those circumstances include the character and charisma of our female leaders and a supportive institutional setting.<sup>111</sup>

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111. See generally Ji Li et al., *Institutional Pillars and Corruption at the Societal Level*, 83 J. BUS. ETHICS 327 (2008).





### **Haleigh Nickerson**

**S.B.W. # 1** is from a series of self-portraits that explore black beauty, black femininity, and the Strong Black Woman trope. The Strong Black Woman or Superwoman exists as a recurring trope where black women are expected to and feel the burden of having to continue to be *strong* and handle their oppression, despite circumstances. The Strong Black Woman is denied vulnerability, the ability to connect to her humanness and her own narrative. This work explores how the S.B.W. exists and navigates her own private space. It investigates black female vulnerability; the exhaustion, melancholy, cultural masking, and silent suffering surrounding the S.B.W. through using costuming and excessive makeup as tools to explore the attempt to attain unrealistic expectations.

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